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Joint written statement* submitted by the World Evangelical Alliance, the Baptist World Alliance and the Christian Solidarity Worldwide, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

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Nepal: Criminalization of Religious Conversion Amid Increasing Hostility Towards Christians

1. In this submission to the Human Rights Council's 39th session, the World Evangelical Alliance, Christian Solidarity Worldwide and the Baptist World Alliance wish to highlight Freedom of Religion or Belief concerns in Nepal.

2. Nepal has experienced in recent months growing societal and governmental hostility towards Christians and other minority religious groups. Nepal's recent constitutional and legislative frameworks violate the right to Freedom of Religion or Belief as enshrined in international human rights law.

Nepal's Constitution

3. In September 2015, Nepal enacted a new constitution. Article 26-1 of this constitution protects freedom of religion or belief by stating that "every person who has faith in religion shall have the freedom to profess, practice and protect his or her religion according to his or her conviction."

4. However, while the first clause of Article 26 protects the freedom of religion, wide and far-reaching restrictions are imposed in its third clause: "No person shall, in the exercise of the right conferred by this Article, do, or cause to be done, any act which may be contrary to public health, decency and morality or breach public peace, or convert a person from one religion to another or any act or conduct that may jeopardize other's religion and such act shall be punishable by law."

5. This restriction conflicts with Nepal's constitutional principle of a "proportional inclusive state" as envisioned in the constitution.

6. Furthermore, Article 4 of the constitution provides an explanation of the term "secular" as follows: "'secular' means religious, cultural freedoms, including protection of religion, culture handed down from the time immemorial". This explanation for the term "secularism" is problematic as it seeks to give a special status to Sanatan Dharma – the religion and culture handed down from ancient times which is commonly understood as Hinduism – over and above other all religious faith and traditions.

7. These restrictions violate the right of religious communities to propagate the tenets of their belief, as such act can be seen an attempt to convert.

Nepal's Criminal Code of 2017

8. The restrictions imposed in the constitution are further strengthened by the offenses related to religion in section nine of the Nepal's Muluki Ain (Criminal Code; 2017 act), which came into effect on 17 August 2018.

9. Article 158 of the Criminal Code denies the right to choose one's religion in the following terms: "(1) No one should involve or encourage religious conversion; (2) No one should convert a person from one religion to another religion or profess their own religion and belief with similar intention by whether using or not means of attraction, and by disturbing the religion or belief of any ethnic groups or community that is being practiced from time immemorial (Sanatan)."

10. Articles 156, 157 and 159 of the Criminal Code use the vague words "hate", "insult", "wounding religious sentiments" and "obstacles." These words are open to misuse. This section of the criminal code has "a chilling effect" on freedom of expression as the section fails to provide the clear boundary of what is prohibited. These clauses could be invoked against a wide range of legitimate expressions of religious faith that are protected by international law.

Lack of Political Representation

11. Nepal's elections are based on a proportional representation system. However, in February 2018, the European Union's Election Observation Mission to Nepal released its report on Nepal's House of Representatives and provincial assembly elections. The report said that Christians were not represented in the election, despite comprising 1.4 percent of the population. The report indicated that Nepal's electoral system is not fully inclusive, as claimed in the constitution.

Increased violence against Christians

12. These legislative and political developments have been accompanied with increased violence against religious minorities, especially against the Christian minority.

13. In March 2018, Sonia Chanda Thakuri was arrested with her six months old baby and accused of attempting religious conversion and destroying Hindu idols. She was released after a week but her court case is ongoing.

14. On April 28, a Catholic church building in the Kohalpur area of the Banke District was set on fire. Members of Hindu Jagran Nepal reportedly threatened to destroy it on April 30.

15. In May 2018, a radical Hindu cleric was arrested for faking an assassination attempt on himself. His purpose was to stoke religious hatred against Christians and the Mangol community.

16. During the month of May, four churches were attacked and set on fire in the span of only eight days. On 12 May, two churches were bombed in Kanchanpur and Taranagar. Local church leaders believe that these attacks were most likely done by Hindu extremists. Six Christians were arrested, on May 9, for sharing their testimonies publicly in Teherathum. These Christians were imprisoned over two weeks on the charge of preaching their religion.

17. On July 19, pastor Sagar Baizu, 46, was assaulted by six to eight men in broad daylight in crowded café, who threatened him with further attacks on churches and on Christian leaders.

Government Statements and Action Further Stigmatize the Nepali Christian Community

18. Six Christians were arrested, on May 9, for sharing their testimonies publicly in Teherathum. These Christians were imprisoned overnight on the charge of preaching their religion. On July 9, a district court acquitted them from all charges.

19. On May 19, two Christians were arrested for Christian teachings in their home and accused of speaking against Hindu gods. They were held overnight in a cell and released the next day.

20. Also, on May 19, authorities closed down a Christian orphanage, New Vision Children's Home, and arrested the manager, Jyoti Gurung, wife of pastor Chandra Gurung, selectively enforcing a largely ignored requirement that orphanages should be registered.

21. On June 15, Ms. Deepu Karmachari was arrested on charges of evangelizing. Karmachari, 50, was preaching at the home of Khushbu Kamat when a young man noticed her and called police, who then arrested her. She was kept in the custody for one day.

22. In April 2018, Nepalese media quoted that Home Affairs Minister Ram Bahadur Thapa as saying, "through Christianity", attempts were being made to "push the country into conflict". He added that, "A new strategy should be devised to consolidate national unity."

23. In May 2018, Nepal's government has issued a draft document, the National Integrity Policy, laying down strict guidelines about what aid agencies and non-government groups can and cannot do. Aimed at regulating the activities of, namely, Western aid agencies, this policy has broad working, and could easily be misused to restrict the activities of religious minority groups. This policy stipulates that international non-governmental organizations "must not act against Nepal's civilisation, culture, social relations and goodwill," and "must not push for their religious, social or other agendas in Nepal." The policy adds that "INGOs assisting foreign embassies and religious missions or for their narratives will be barred."

24. In June 2018, various Nepali medias reported that the ministers from Home Affairs Ministry and Ministry of Women, Children and Senior Citizen have jointly decided not to renew the registration of local NGOs and INGOs who are involved in religious activities.

Recommendations to the Government of Nepal

25. Remove the explanation for secularism from the Article 4 of the Constitution.

26. Article 26-1 of the Constitution on freedom of religion should be reworded in line with Article 18 of ICCPR. The Constitution should include the freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.

27. Draft a suitable Guthi (trust) Act or similar policy on the participation of all the religious groups, keeping special consideration to the practicality of religious minorities as mentioned in article 26-2. Allow the existing religious organizations registered under the NGO Act or the Company Act to operate, or alternatively, allow them to register as religious organizations.

28. Remove the sentence "convert another person from one religion to another or any act or conduct that may jeopardize other's religion" from Article 26-3 of the Constitution.

29. Amend the Criminal Code, removing Articles 155 to 159.

30. Stop arresting or intimidating members of religious minorities on the false charge of attempting to "convert" others.

31. Combat the stigmatization of minority religious communities; take initiatives to foster community cohesion and pluralism.

32. Make provision for the local governments at ward level to facilitate and provide funeral/burial places for all the religious groups according to their own practices.

33. Protect religious minorities and their places of worship, especially those that have received threats, and fully investigate cases of attacks on places of worship and on members of religious minorities.